

United States District CourtFILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

for the

Nov 24, 2021

SEAN F. McAVOY, CLERK

Eastern District of Washington**Petition for Warrant or Summons for Offender Under Supervision**

Name of Offender: Joseph Emery Malo, III Case Number: 0980 2:19CR00104-WFN-1
 Address of Offender: Spokane, Washington 99205
 Name of Sentencing Judicial Officer: The Honorable Wm. Fremming Nielsen, Senior U.S. District Judge
 Date of Original Sentence: January 22, 2020
 Original Offense: Failure to Register as a Sex Offender, 18 U.S.C. § 2250(a)
 Original Sentence: Probation - 60 Months Type of Supervision: Probation
 Asst. U.S. Attorney: Ann Wick Date Supervision Commenced: January 22, 2020
 Defense Attorney: Federal Public Defender Date Supervision Expires: January 21, 2025

PETITIONING THE COURT

To incorporate the violation(s) contained in this petition in future proceedings with the violation(s) previously reported to the Court on 11/4/2021.

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
3	<p><u>Mandatory Condition #3:</u> You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court.</p> <p><u>Supporting Evidence:</u> Mr. Joseph Malo is alleged to have violated mandatory condition number 3 on or about November 5, and then again on November 10, 2021, by ingesting methamphetamine, based on both laboratory testing and the client's admission of such use.</p> <p>On January 24, 2020, Mr. Malo signed his conditions relative to case number 2:19CR00104-WFN-1, indicating he understood all conditions as ordered by the Court. Specifically, Mr. Malo was advised that he was to refrain from any unlawful use of a controlled substance.</p> <p>On November 5, 2021, Mr. Malo submitted to random urinalysis testing as conducted by the federal probation contract provider in Spokane, Washington. Mr. Malo ultimately submitted a sample that reflected as being presumptive positive for amphetamine and methamphetamine. A signed drug use admission form was subsequently received on November 8, 2021, and provided by the contract provider in which the client checked the box admitting to ingesting the substance as previously occurring on or about October 29, 2021. The sample was subsequently forwarded to the contract laboratory for confirmation.</p>

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On November 10, 2021, Mr. Malo again submitted to random urinalysis testing as conducted by the federal probation contract provider in Spokane. Mr. Malo provided a urinalysis sample for testing that again reflected as being presumptive positive for both amphetamine and methamphetamine. On November 12, 2021, a second drug use admission form was received from the contract provider in which the client checked the box and signed his name denying any use of a prohibited substance. The sample was again forwarded to the contract laboratory for confirmation.

On Monday, November 15, 2021, telephonic contact was made with the client, at which time the officer expressed extreme concern based on the two previously submitted urinalysis samples. Mr. Malo admitted that he himself was concerned about the tests, and adamantly expressed that he had not relapsed since late October, as previously reported to the Court in the petition dated November 4, 2021.

On November 18, and 23, 2021, respectively, the laboratory reports specific to the client's aforementioned submitted urinalysis samples were received by the undersigned officer in which both samples were confirmed as being positive for amphetamine and methamphetamine. On November 23, 2021, the undersigned officer attempted contact with Mr. Malo telephonically and through text messaging, but Mr. Malo later cited a busy work schedule and subsequently losing his phone as reasons that he was unable to make contact with the undersigned office on the day in question. In addition, there was one attempt in which the client left a voice mail for the undersigned officer, at a time when the undersigned officer was indisposed.

On November 24, 2021, Mr. Malo contacted the undersigned officer and during this discussion ultimately admitted to ingesting methamphetamine most recently on or about November 7 or 8, 2021, and then additionally prior to his previously conducted November 5, 2021, urinalysis test, although he was unable to remember exact dates with regard to either occasion. Mr. Malo cited stress and anxiety in current relationships as the driving factor for his continued use of methamphetamine.

The U.S. Probation Office respectfully recommends the Court to incorporate the violation(s) contained in this petition in future proceedings with the violation(s) previously reported to the Court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: November 24, 2021

s/Chris Heinen

Chris Heinen
U.S. Probation Officer

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THE COURT ORDERS

- ☐ No Action
- ☐ The Issuance of a Warrant
- ☐ The Issuance of a Summons
- ☒ The incorporation of the violation(s) contained in this petition with the other violations pending before the Court.
- ☐ Defendant to appear before the Judge assigned to the case.
- ☒ Defendant to appear before the Magistrate Judge.
- ☐ Other



Signature of Judicial Officer

11/24/2021

Date